

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FERNANDO GASTELUM

Plaintiff,

v.

BED BATH & BEYOND, INC.,

Defendant.

Case No. 1:22-cv-01173-ADA-CDB

ORDER TO SHOW CAUSE WHY  
SANCTIONS SHOULD NOT BE IMPOSED  
FOR THE PLAINTIFF'S FAILURE TO  
PROSECUTE THIS ACTION AND TO  
COMPLY WITH THE COURT'S ORDERS;  
ORDER CONTINUING THE MANDATORY  
SCHEDULING CONFERENCE

**TEN-DAY DEADLINE**

Plaintiff Fernando Gastelum filed a complaint in this action on September 14, 2022. (ECF No. 1.) On September 28, 2022, the Clerk of Court issued a summons and the Court entered an Order setting a mandatory scheduling conference. (ECF Nos. 3, 4.) The Order directed Plaintiff to "diligently pursue service of summons and complaint" and "promptly file proofs of service." The Order further advised Plaintiff that failure to diligently prosecute this action "may result in the imposition of sanctions, including the dismissal of unserved defendants." To date, Plaintiff has not filed proofs of service, and the defendants have not appeared in the action.

Local Rule 110 provides that "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court." The Court has the inherent power to

1 control its docket and may, in the exercise of that power, impose sanctions where appropriate,  
2 including dismissal of the action. Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir.  
3 2000).

4 Based on the foregoing, IT IS HEREBY ORDERED that **within ten (10) days** of service  
5 of this order, Plaintiff **SHALL** show cause in writing why sanctions should not be imposed for  
6 the failure to prosecute this action and to serve the summons and complaint in a timely manner.  
7 Alternatively, the plaintiff may file a proof of service demonstrating the summons and complaint  
8 has been served.

9 IT IS FURTHER ORDERED that the scheduling conference previously set for December  
10 19, 2022, is CONTINUED to January 18, 2023 at 9:30 a.m.

11 Plaintiff is advised that failure to respond to this Order to Show Cause may result in  
12 dismissal of this action.

13 IT IS SO ORDERED.

14 Dated: **December 9, 2022**

  
UNITED STATES MAGISTRATE JUDGE